IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revision. No. 208 of 2006.
Date of Decision: April 27, 2007.

State of Haryana ....**Petitioner**

through
Mr. Tarun Aggarwal, Sr. DAG, Haryana

Versus

Anil Bijwari .

...**Respondent**
through
Mr. Vivek Suri, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This revision petition is directed against the order dated 29.10.2005 passed by the learned Additional Sessions Judge, Panchkula whereby the respondent has been discharged after holding that no *prima facie* case under Sections 392,395,412,120-B IPC and 25 of the Arms Act is made out against him in the case arising out of FIR No.242 dated 5.6.1999 registered at Police Station, Sector 5, Panchkula.

One of the contentions raised on behalf of the petitioner-State is that instead of presenting the 'supplementary challan' to the same court wherein the main challan in the aforementioned case was presented, the same was inadvertantly presented to another Court of learned Additional Sessions Judge, Panchkula, who, on consideration thereof, has passed the impugned order.

In other words, it is contended on behalf of the petitioner that had the material collected by the Investigating Agency which forms part of the 'main challan' as well as 'the supplementary challan', been considered together by the Court, a *prima facie* case would have been made out against the respondent.

On the other hand, learned counsel for the respondent contends that there is not even an iota of material in the main or the supplementary challan to connect the respondent with the alleged offence, therefore, no exception can be made to the impugned order.

After hearing learned counsel for the parties, I am of the considered view that since the impugned order dated 29.10.2005 has been passed without taking into consideration the 'main challan' and merely on consideration of the 'supplementary challan', the same is liable to be set aside. Ordered accordingly.

Consequently, the respondent is directed to appear in the Court of learned Additional Sessions Judge, Panchkula before whom the main challan was presented. Learned Additional Sessions Judge shall also call upon the record of the supplementary challan and take the same into consideration while re-deciding the issue of framing of charges. The respondent shall be entitled to raise his contention that there is no material whatsoever in the main challan as well as the supplementary challan, on the basis of which *prima facie* case can be made out against him.

Needless to say that any such contention raised on his behalf shall be objectively considered by the learned trial Court in accordance with law.

Since the respondent has already been discharged at the stage of framing of charges, he will not be required to furnish bail-bonds, though he is directed to remain present in the Court. However, if any adverse order is passed against the respondent, in that event he shall furnish bail bonds to the satisfaction of the learned trial Court, upon which he shall be admitted to bail. Of course, the respondent shall be at liberty to impugn the order that is passed by the learned trial Court re: framing of charges, if so required, in accordance with law.

Disposed of.

April 27, 2007. **(SURYA KANT)**
dinesh **JUDGE**